

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

ARTHUR JOYAL BARKER	§	
VS.	§	CIVIL ACTION NO. 9:15cv64
J. NANCY MITCHELL, ET AL.	§	

ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Arthur Joyal Barker, an inmate at the Powledge Unit, proceeding *pro se*, brought the above-styled lawsuit against J. Nancy Mitchell and Stephen Martin.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the defendants' motion to dismiss be granted with respect to plaintiff's claims of retaliation. However, the Magistrate Judge recommended the defendants' motion be denied with respect to any remaining claim.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

Plaintiff objects to the Report, asserting that defendant Martin's actions were in retaliation for a 2011 incident in which plaintiff complained to the Texas Medical Board. Additionally, plaintiff complains that defendant Martin's acted with malicious intent. However, as the Magistrate Judge observed, plaintiff has failed to establish direct evidence of motivation or allege

a chronology of events from which retaliation any plausibly be inferred. *See Woods v. Smith*, 60 F.3d 1161, 1166 (5th Cir. 1995). Plaintiff's conclusory allegations are not sufficient to demonstrate otherwise. After careful consideration, the court concludes plaintiff's objections are without merit.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. It is therefore

ORDERED that the defendants' motion to dismiss is **GRANTED** with respect to plaintiff's claims of retaliation. It is further

ORDERED that the defendants' motion to dismiss is **DENIED** with respect to plaintiff's remaining claims.

So **ORDERED** and **SIGNED** this **20** day of **September, 2016**.



Ron Clark, United States District Judge